



**Department of Consumer and Business Services
Legislative Summary – 2007**

The Oregon Legislative Assembly enacted a variety of measures affecting DCBS and the accomplishment of its mission during the regular session in 2007. Highlights include:

- **Identity theft protection.** SB 583 provides consumers with protections against identity theft by requiring safeguarding of personal information, notification of data breaches, giving consumers the right to freeze their credit files, and restricting the use of Social Security numbers.
- **Regulation of payday, title and consumer lending.** HB 2203 extends Oregon's payday lending law to out-of-state lenders and allows DCBS to implement a database to ensure compliance with rollover and seven-day wait limitations applicable to these loans. HB 2204 sets interest rates, fee caps, and lending restrictions on vehicle title loans to match the caps on payday loans. HB 2871 caps fees and charges on all consumer loans.
- **Regulation of check cashers.** HB 2202 limits fees that can be charged by check-cashing businesses.
- **Health insurance transparency.** HB 2213 requires health insurers to provide consumers with advance estimates of how much they will have to pay for medical treatment. HB 3103 makes health insurance rate filings public as soon as they are submitted to the state for review.
- **One-stop building e-permitting.** HB 2405 creates a statewide electronic building codes permitting and plan review system available to all local jurisdictions that administer and enforce building inspection programs.
- **Rural medical malpractice insurance relief.** SB 183 extends and restructures the reduced-cost medical malpractice insurance program that provides rate relief for rural doctors, and adds nurse practitioners to the program.
- **Expansion of small employer group pool for small group health insurance.** HB 2002 strengthens the health insurance marketplace for Oregon small businesses by expanding the small employer group pool to include businesses with up to 50 employees, and by creating new incentives for businesses to cover more employees and promote wellness programs.
- **Insurance coverage for contraceptives.** HB 2700 requires a health benefit plan or student health insurance policy to cover prescription contraceptives if the plan or policy includes a prescription drug benefit.

While not intended to be comprehensive, a more detailed list of major legislation related to DCBS and its mission follows:

CONSUMER PROTECTION

Identity theft protection – SB 583. SB 583 protects Oregonians from identity theft by providing that those who own, maintain, possess or dispose of personal data must safeguard that data from unauthorized use. Consumers must be notified when their personal information is subject to a security breach. Every Oregonian will have the right to request a security freeze on his or her credit file maintained by a credit reporting agency, and to temporarily lift the freeze for a period of time. Use and display of Social Security numbers is restricted. DCBS is given the authority to enforce the law.

Regulation of payday lending – HB 2203. HB 2203 extends Oregon’s payday lending laws to all payday loans made to borrowers in Oregon, including Internet lenders. In addition, the bill allows DCBS to implement and require payday and title loan companies to participate in a statewide lender database to ensure compliance with the rollover and seven-day wait limitations applicable to these loans.

Fees and interest rates on short-term title loans – HB 2204. HB 2204 limits interest rates and fees on vehicle title loans to match the caps on payday loans (36 percent per annum), requires a minimum term of 31 days, and limits loans to two renewals. The bill also prohibits a title lender from making a new title loan to the same consumer within 7 days of the expiration of the previous title loan. Title loans will include “sale-leaseback” arrangements.

Consumer finance and short-term loan interest rate and fee limits – HB 2871. HB 2871 caps interest rates for conventional consumer finance loans as well as payday and title loans. Conventional loan rates are limited to an annual percentage rate of 36 percent or 30 percentage points above the discount rate on 90-day commercial paper, whichever is greater. The bill also restricts fees that can be charged by payday and title lenders; regulates brokers or facilitators of loans; and allows contract terms and other charges to be set by rule.

Regulation of check cashers – HB 2202. HB 2202 limits check-cashing fees to the greater of \$5 or 2 percent for checks issued by the federal government, the State of Oregon, or the municipality where the check is cashed; the greater of \$5 or 3 percent for payroll checks and all other government checks; and the greater of \$5 or 10 percent for personal checks. The total fee for cashing any check cannot exceed \$100. The bill also establishes licensing requirements for check-cashing businesses.

Long term care insurance – SB 191. SB 191 enables Oregonians to benefit from recent federal legislation (the Long Term Care Insurance Partnership Act) by permitting those with long term care insurance to access Medicaid services once policy benefits are exhausted without having to spend down their assets. The bill incorporates consumer protections and insurance policy provisions required under the federal legislation and establishes specific training requirements for insurance producers (agents) selling long term care insurance.

Securities enforcement – SB 119. SB 119 authorizes the Attorney General, with the consent of the Director of DCBS, to investigate and prosecute violations of the Oregon Securities Law in certain instances. The Attorney General will be able to pursue alleged violations involving companies whose securities are listed on the national stock exchanges or where the Attorney General is also pursuing an investigation or litigation regarding unlawful trade practices, racketeering, or antitrust.

Variable annuities – SB 257. SB 257 makes variable annuities, currently regulated as insurance, also subject to state securities regulation. The effect is to create broader enforcement tools, and to give DCBS more ability to require supervision of brokers who sell annuities.

Credit union service to the poor – SB 592. SB 592 allows a state-chartered credit union that predominantly serves low-income members to receive a low-income designation. With this designation, nonmembers may make deposits and hold shares in the credit union and the credit union may accept secondary capital accounts. The Director of the DCBS will set guidelines for determining whether the credit union will qualify for this designation. The bill also limits the fees credit unions can charge to cash checks, and allows credit unions to sell checks, money orders, and other money transfer instruments to credit union members.

Financial education – HB 2584. HB 2584 creates a task force to make recommendations on how to improve civics and financial education in kindergarten through the 12th grade. The task force will report to the Legislature's interim education committees by October 1, 2008, with a summary of findings and legislative recommendations.

Motor vehicle insurance, family exclusion and uninsured motorist coverage – HB 2908, HB 3086. HB 2908 allows a person who is injured by a motor vehicle of a public body to recover from the person's own uninsured motorist coverage when the person suffers damages greater than the amount the person is able to recover from the public body. Under this bill, an injured person's uninsured motorist coverage must pay the difference if the coverage exceeds the maximum recoverable from the public body. HB 3086 addresses this issue as well, and also requires a motor vehicle liability insurance policy to provide liability coverage for each family member of the insured living in the same household, in an amount equal to the amount of coverage purchased by the insured.

Notice of repair shop rights – SB 523. SB 523 improves notice to consumers of their rights under motor vehicle insurance policies when a consumer takes a car to an auto body shop for repair of accident damage. The bill also requires equal treatment of claims regardless of whether the consumer takes the car to a recommended auto body shop. Current law prohibits an insurer from requiring the use of a particular shop as a condition of recovery under the insurance policy, but does not require the insurer to notify the consumer of the prohibition and does not require comparable payments.

Vehicle theft protection product warranty program – HB 3386. HB 3386 creates a warranty program for vehicle theft protection products, administered by DCBS. The bill requires any person doing business as a warrantor of a vehicle theft protection product to register with DCBS

and requires the seller or warrantor of the product to furnish the consumer a copy of the warranty.

ACCESS TO AFFORDABLE HEALTH CARE

Medical discount plans – HB 2221. Medical discount plans contract with health care providers and networks to offer discounts for various medical services. To prevent deceptive and misleading sales tactics, and to eliminate the sale of fraudulent plans, HB 2221 creates a licensing program for these plans at DCBS and requires plans to provide detailed consumer information. A medical discount plan must have a written contract with providers or provider networks who provide services at a discount, must provide a free-look period with a 30-day right to cancel and a toll-free customer assistance number, and must comply with refund requirements, advertising restrictions and disclosure standards.

Health insurance cost transparency – HB 2213. HB 2213 requires health insurers to provide an enrollee with a reasonable estimate of average costs for specific in-network medical procedures or services in advance of the procedure or service. Similar information will be required for out-of-network services. The reasonable estimate of the out-of-network costs will include the difference between the insurer's allowable charge and the billed charge for the procedure or service. This information will enable consumers to find out in advance how much they will be expected to pay.

Public access to health insurance rate filings – HB 3103. HB 3103 requires DCBS to make insurance carriers' rate filings for individual, portability and small employer group health benefit plans available for public inspection. The Department will implement this bill by posting filings on the Insurance Division's Web site, in order to expand public accountability and enhance competition among carriers.

Rural medical malpractice insurance relief – SB 183. SB 183 extends and restructures the reduced-cost medical malpractice insurance program that provides rate relief for rural doctors. The program, enacted in 2003, is intended to help attract and retain doctors in rural Oregon. SB 183 adds nurse practitioners to the program, requires participating doctors and nurse practitioners to be willing to serve Medicare and Medicaid patients, re-defines the areas considered "rural," continues to prioritize obstetric care, and reduces subsidy levels for non-primary care doctors.

Expansion of small employer group pool for small group health insurance – HB 2002. HB 2002 strengthens the health insurance marketplace for Oregon small businesses by expanding the small employer group pool to include businesses with up to 50 employees and by creating new incentives for businesses to cover more employees and promote wellness programs.

Insurance coverage for contraceptives – HB 2700. HB 2700 requires a health benefit plan or student health insurance policy to cover prescription contraceptives if the plan or policy includes a prescription drug benefit. The bill also requires coverage of related outpatient consultations and other services that are necessary in connection with the prescription contraceptive, if the services are covered for other drug benefits. These requirements also apply to prescription drug benefit programs. The bill provides an exemption for religious employers.

Expanded health insurance coverage – SB 8, SB 491, SB 676, HB 2517, HB 2918. These bills expand the types of services that must be covered by health insurance, to include orally administered anti-cancer medication (SB 8); bilateral cochlear implants when cochlear implants are covered (SB 491); medical services submitted directly by a physician assistant (SB 676); medically necessary prosthetics and orthotics (HB 2517); and medical services for a child with a pervasive developmental disorder (HB 2918).

Limitation on insurer denial of state Medicaid claims – SB 153. SB 153 prohibits a health insurer or other managed care entity from denying a claim submitted by the state Medicaid agency or a prepaid managed care health services organization based on the date of submission of the claim, the type or format of the claim form, or failure to present proper documentation at the point of sale that is the basis of the claim.

Health insurance for associations – HB 3321. HB 3321 exempts health benefit plans issued to a small employer group through an association health plan from the statutes governing small employer group plans, if the association plans meet standards for initial premiums, do not discriminate in membership based on enrollees' health status, and maintain high retention rates. The bill requires DCBS to monitor association health plan data and report the findings to the legislature, and applies equally to out-of-state association plans.

Individual health plan coverage – SB 586. SB 586 makes permanent a temporary provision, enacted in 2003, that allows an insurer to specify which of its individual health benefit plans will be offered to an applicant. Under prior law, a carrier either had to deny coverage to an applicant or allow the applicant to select coverage from any of the plans offered by the carrier.

WORKER PROTECTION AND WORKERS' COMPENSATION

Permanent partial disability sunset repeal – HB 2244. HB 2244 removes the sunset and makes permanent the partial disability benefit changes made by SB 757 in 2003 and HB 2408 in 2005. As intended in 2003 and 2005, these law changes have redistributed permanent partial disability benefits from workers who are able to return to work more quickly toward workers with longer-term injuries and work disability. The bill also requires the Management-Labor Advisory Committee (MLAC) to review permanent partial disability benefit amounts on a biennial basis and make recommendations to ensure the original policy goals continue to be met over time.

Successor employer compliance with Safe Employment Act – HB 2223. HB 2223 expands the definition of "employer" for the purposes of the Oregon Safe Employment Act (ORS 654). The bill enables DCBS/Oregon OSHA to adopt rules that will hold a successor employer (one that is essentially the same as a prior employer) responsible for the correction of hazards to protect workers, for determining "repeat" violations, and for the payment of civil penalties.

Home Care Commission election of coverage – HB 3362. HB 3362 requires the Home Care Commission to elect workers' compensation coverage on behalf of Department of Human Services clients who employ home care workers if the worker is paid by the state on behalf of the client. The bill requires the home care worker to accept appropriate modified employment with any client of the Department of Human Services who employs a home care worker or risk termination of their temporary disability benefits.

Farm labor contractor workers' compensation coverage – SB 202. SB 202 requires farm labor contractors seeking a license through the Bureau of Labor and Industries to provide proof of workers' compensation for their workers. Farm labor contractors not engaged in forestation or reforestation must demonstrate compliance with the coverage requirements to the extent required under workers' compensation law, unless workers' compensation insurance is "otherwise provided." For contractors in forestation/reforestation work, the bill requires that they provide coverage for all manual laborers, whether or not they are subject workers under the workers' compensation law.

MLAC death benefit study – SB 835. SB 835 directs the Workers' Compensation Management-Labor Advisory Committee to conduct an interim study of the adequacy of death benefits in the workers' compensation system. The evaluation will include a review of the method of calculating benefits, burial amounts, categories of beneficiaries, and feasibility of providing lump sum benefit payments. A written report to the 75th Oregon Legislative Assembly is required by January 31, 2009.

Worker expense reimbursements and attorney liens – SB 404. SB 404 allows for payment of reasonable costs for records, expert opinions, and witness fees associated with appealing a workers' compensation claim if the claimant prevails. The bill caps reimbursement for reasonable costs at \$1,500 unless the claimant demonstrates extraordinary circumstances justifying payment of a greater amount. The bill also allows an attorney who represents an injured worker a lien for recovery of fees out of additional awarded compensation or the proceeds of a claim settlement if the worker signs an attorney fee agreement for representation and the attorney was instrumental in obtaining the outcome of the claim.

Workplace violence in the health care industry – HB 2022. HB 2022 requires health care employers to address assaults of employees who work in ambulatory surgical centers and hospitals. These employers are required to conduct periodic security and safety assessments to identify assault hazards, develop an assault prevention and protection program, provide training, and maintain a record of assaults that result in injury to their employees.

Nurse practitioner sunset repeal – HB 2247. HB 2247 repeals the sunset and makes permanent changes made in 2003 by HB 3669, which allow nurse practitioners to provide compensable medical services to injured workers for up to 90 days, authorize time loss for up to 60 days, release the worker to work, and manage the worker's return to work during that time period. The 2003 law also allowed workers to bring their nurse practitioners into a managed care organization under specific circumstances.

Expanded workers' compensation treatment authority – HB 2756. HB 2756 allows chiropractic physicians, podiatrists, naturopaths, and physician assistants to act as attending physicians for injured workers for 60 days or 18 visits, whichever comes first – an increase from 30 days or 12 visits allowed under current law. In addition, the four provider groups can authorize time loss for 30 days and manage the worker's return to work during that period. The bill does not give the four provider groups authority to determine a worker's permanent impairment at claim closure, and requires all four provider types to certify they have reviewed informational materials developed by the director.

Improved requirements for employer safety committees – HB 2222. Current law requires employers with more than 10 employees to have a safety committee. It also requires employers with 10 or fewer employees to have a safety committee based on either their disabling claims rate or the overall injury rate (although the latter provision does not apply to agriculture). HB 2222 eliminates the 10-employee threshold from statute and replaces the safety committee requirement with a requirement for all employers to have safety committees or use safety meetings under rules adopted by DCBS. The bill requires appropriate consideration for the unique circumstances of agriculture, small employers and employers with mobile worksites.

Eliminate guaranty contracts – SB 559. Starting July 1, 2009, SB 559 removes the requirement that employers and insurers provide proof of workers' compensation coverage by filing a guaranty contract with DCBS and instead requires the insurer to provide insurance policy information to DCBS as the proof of workers' compensation coverage. The bill streamlines reporting requirements for insurers and eliminates an unnecessary duplicate filing with the state.

Emergency room treatment of injured workers – SB 504. When an injured worker seeks treatment through a hospital emergency room, often the worker sees the emergency room physician only for that visit. Claims adjusters sometimes have difficulty contacting the emergency room physician later to clarify return-to-work options, temporary disability authorization, or treatment issues, or to obtain closing examinations. SB 504 excludes an emergency room physician from the definition of an attending physician when the physician refers the worker to a primary care physician for follow-up care. If the worker needs time off work, the bill allows the emergency room physician to authorize time loss benefits for a maximum of 14 days. If a physician treats patients in an emergency room but also maintains an independent practice, the physician could act as the worker's attending physician if he or she otherwise qualifies to be an attending physician and also provides the follow-up care to the injured worker.

Taxicab owner-operator coverage – SB 688. SB 688 clarifies that taxicab drivers are considered as non-subject workers under workers' compensation insurance coverage requirements if they lease a taxicab by the shift or for a longer period or the taxicab used is under a contract to a third party for transporting designated passengers, to provide errand service, or to provide non-emergency medical transportation.

ALJ approval of settlements – SB 253. SB 253 allows an Administrative Law Judge who mediates a workers' compensation claim disposition agreement to approve the agreement.

CONSTRUCTION QUALITY AND EFFICIENCY

One-stop building e-permitting – HB 2405. HB 2405 creates a one-stop statewide electronic building codes permitting system to be available for use by all municipalities administering and enforcing building inspection programs. The system will allow customers to apply, pay for and receive permits online; submit plans electronically for review and tracking; schedule and track inspections and receive inspection reports electronically; and coordinate the sharing of information and data among jurisdictions' permitting systems. The program will build on an existing pilot project, and will be implemented over a 10-year period.

Increased protection in residential construction – HB 2654. HB 2654 implements a number of recommendations from the Construction Claims Task Force. The bill requires contractors to obtain liability insurance that includes completed operations; prohibits a contractor from claiming a lien on residential construction unless a written contract was provided; allows regulators to establish continuing education requirements for contractors, and to establish standard terms for residential construction contracts; requires contractors to offer a warranty to their customers; requires the contractor to supply homeowners with home maintenance information; increases the amount of the contractor's bond; and expands the regulators' ability to deny licenses or take enforcement action against contractors that fail to meet standards.

Construction contractor bonding requirements – HB 2751. HB 2751 enables insurers to more easily write group liability policies for construction contractors and expands competition in this insurance market by enabling insurers to group risks without having to prove the grouping's value on a case-by-case basis. The exemption will most affect project-based insurance on large construction projects. This bill implements recommendations from the Construction Claims Task Force.

Uniform permit, inspection and certificate of occupancy requirements – HB 2478. HB 2478 permits DCBS to establish uniform building permit, inspection, and certificate of occupancy requirements. The bill establishes a moratorium until July 1, 2010 on cities or counties assuming responsibility for administering and enforcing building inspection programs unless the jurisdiction already provides a partial building inspection program, or the responsibility is being assumed from DCBS. In addition, the bill requires a jurisdiction that administers a building inspection program to ensure that a person required to be licensed has the valid license required for any building permit.

Building codes license application process streamlining – HB 2219. HB 2219 makes technical changes to application and renewal processes for trade licenses administered by the Building Codes Division. The bill removes several remaining references to annual licenses, allowing the agency to move to multiple-year licenses, and makes language consistent between licenses categories.

Changes to the boiler program – SB 193. SB 193 allows DCBS to specify by rule which boilers and pressure vessels will be subject to local jurisdiction inspection upon installation, alteration, or repair, and to exempt or partially exempt boilers from regulation. The bill authorizes the

Board of Boiler Rules to adopt rules for inspections, including required frequency, and requires inspectors who are employed by insurance companies to perform certain inspections of boilers insured by the company.

Consistent building codes enforcement tools – SB 192. SB 192 expands grounds for sanctions against building trades licensees, including disciplinary actions by the Construction Contractors Board (CCB) for failure to pay a civil penalty, and expands the building-code related statutes that can provide a basis for sanctions by the CCB. The bill also clarifies that aiding or abetting an individual in the violation of building code laws is prohibited, and prohibits employing unlicensed boiler workers.

POSITIVE BUSINESS CLIMATE - REGULATORY STREAMLINING

The Office of Regulatory Streamlining within DCBS works with all state agencies that regulate businesses to identify ways to reduce regulatory costs and burdens. The 2007 legislature passed more than two dozen regulatory streamlining bills co-sponsored by the Office of Regulatory Streamlining. In addition to many of the bills listed above, the following are examples of regulatory streamlining relating to DCBS programs and activities:

More efficient review of life insurance policy forms – HB 2224. This bill streamlines the review of certain life insurance policy forms that already have been approved under consumer protection standards established by the Interstate Insurance Product Regulation Commission.

Updated pawnbroker regulation – HB 2220. This bill allows DCBS to determine the frequency of examinations of licensed pawnbrokers, updates record-keeping requirements, allows pawnbrokers to keep records electronically, eliminates the residency requirement for pawnbrokers, and eliminates the requirement that a license application be posted for 30 days before a license is issued. The bill also allows a pawnbroker to redeem a pledge or provide a new pawn ticket within five days of receiving notice from a customer that their pawn ticket is lost, destroyed, or stolen.

Extended license terms – HB 2243. Building on prior legislation, this bill facilitates DCBS' and other state agencies' establishment of extended terms for various licenses and permits to reduce the paperwork burden associated with license renewals.

Insurance company boards of directors – SB 603. SB 603 gives domestic insurance companies more flexibility in choosing members for their boards of directors, by reducing the number of board members that must be residents of this state.

Streamlining workers' compensation benefit delivery – HB 2218. HB 2218 eliminates three obsolete workers' compensation processes in order to provide faster delivery of benefits to injured workers, as well as provides DCBS more flexibility to address managed care organization performance issues.